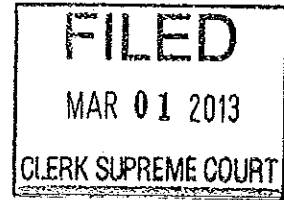


In the Supreme Court of Iowa

**In the Matter of Adoption
of an Emeritus Pro Bono
Practice Rule**

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Order



The Iowa Supreme Court adopts an emeritus pro bono practice rule that encourages retired or retiring Iowa attorneys, including persons licensed as attorneys in other states, to provide volunteer legal services on behalf of legal aid organizations serving low income persons in Iowa. Rule 31.19 is contained in Chapter 31 of the Iowa Rules of Court governing admission of attorneys to the bar.

The emeritus pro bono practice rule allows active or inactive Iowa attorneys, or attorneys admitted in another state or the District of Columbia, to request certification as an emeritus attorney. Emeritus attorneys will relinquish any existing status as an active or inactive Iowa attorney and be granted a limited license to provide pro bono legal services under the general supervision of an approved legal aid organization. Emeritus attorneys will be required to file annual client security and continuing legal education reports and fulfill normal continuing legal education requirements but will be exempt from the annual fee for support of the attorney disciplinary system and from any assessment for the client security trust fund.

Prior to adopting this rule, the supreme court carefully considered public comments submitted on the proposed rule. One non-profit organization urged extension of the emeritus rule to "all pro bono work" rather than limiting the work of emeritus attorneys to "approved legal aid organizations." The supreme court recognizes the important work of all non-profit organizations providing pro bono representation, but the court has determined that limiting the scope of the emeritus rule to approved legal aid organizations is the best way to

achieve the primary purpose of the rule: to meet the increasing needs for civil legal representation of low-income persons in Iowa.

Effective immediately, the Iowa Supreme Court adopts new Rule 31.19 of the Iowa Court Rules establishing an emeritus attorney pro bono practice rule in the State of Iowa.

Dated this 1st day of March, 2013.

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice

(Proposed new rule)

Rule 31.19 Certification and pro bono participation of emeritus attorneys.

31.19(1) Purpose. The following rule establishes the emeritus attorneys pro bono participation program.

31.19(2) Definitions.

a. Emeritus Attorney. An "emeritus attorney" is any person who is admitted to practice law in Iowa and is on inactive, active, or retired status at the time of application, or who is or was admitted to practice law before the highest court of any other state or territory of the United States or the District of Columbia, and;

(1) does not have a pending disciplinary proceeding;

(2) has never been disbarred or had a license to practice law revoked in any jurisdiction;

(3) agrees to abide by the Iowa Rules of Professional Conduct and submit to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes;

(4) neither requests nor accepts compensation of any kind for the legal services to be rendered under this chapter; and

(5) is certified under this rule.

b. Active. For purposes of this rule, "active" describes lawyers with the status of corporate, full-time, part-time, government, judge, or military service for purposes of the client security commission.

c. Approved Legal Aid Organization. For purposes of this rule, an "approved legal aid organization" shall include a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa. A legal aid organization seeking approval from the court for the purposes of this rule shall file a petition with the Office of Professional Regulation certifying that it is a not-for-profit organization and reciting with specificity:

(1) the structure of the organization and whether it accepts funds from its clients;

(2) the major sources of funds the organization uses;

(3) the criteria used to determine potential clients' eligibility for legal services the organization performs;

(4) the types of legal and nonlegal services the organization performs;

(5) the names of all members of the Iowa Bar the organization employs or who regularly perform legal work for the organization;

(6) the existence and extent of malpractice insurance that will cover the emeritus attorney;

(7) the number of attorneys on the organization's board of directors; and

(8) the availability of in-house continuing legal education.

31.19(3) Activities.

a. Permissible Activities. An emeritus attorney, in association with an approved legal aid organization, may perform the following activities:

(1) The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization.

(2) The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus attorney is involved. Such pleadings shall include the attorney's status as emeritus attorney and the name of the approved legal aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.

(3) The emeritus attorney may provide advice, screening, transactional and other activities for clients of approved legal aid organizations.

b. Determination of Nature of Participation. The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus attorney's participation in any proceedings before the court.

31.19(4) Supervision and limitations.

a. Supervision by Attorney. An emeritus attorney must perform all activities authorized by this chapter under the general supervision of the approved legal aid organization.

b. Representation of Status. Attorneys permitted to perform services under this chapter may only hold themselves out as emeritus attorneys.

c. Payment of Expenses and Award of Fees. The prohibition against compensation for the emeritus attorney contained in rule 31.19(2)(a)(4) shall not prevent the approved legal aid organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the emeritus attorneys, nor shall it prevent the approved legal aid organization from making such charges for its services as it may otherwise properly charge. The approved legal aid organization shall be entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.

31.19(5) Certification. Permission for an emeritus attorney to perform services under this chapter shall become effective upon filing with and approval by the Office of Professional Regulation of the Supreme Court of Iowa of:

a. a certification from an approved legal aid organization stating that the emeritus attorney is currently associated with that legal aid organization and that all activities of the emeritus attorney will be under the general supervision of the legal aid organization;

b. a certificate from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice

law, certifying that the emeritus attorney is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had the license to practice law revoked; and

c. a sworn statement from the emeritus attorney that the emeritus attorney:

(1) relinquishes status as an inactive, active, or retired lawyer and requests placement in emeritus status for purposes of the client security commission and commission on continuing legal education;

(2) understands and will abide by the provisions of the Iowa Rules of Professional Conduct;

(3) submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes; and

(4) will neither request nor accept compensation of any kind for the legal services authorized under this chapter.

31.19(6) *Withdrawal of certification.*

a. *Withdrawal of Permission to Perform Services.* Permission to perform services under this chapter shall cease immediately upon the filing with the office of professional regulation of a notice either:

(1) from the approved legal aid organization stating that the emeritus attorney has ceased to be associated with the organization, which notice must be filed within 30 days after such association has ceased; or

(2) from the Iowa Supreme Court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice shall be mailed by the office of professional regulation to the emeritus attorney involved and to the approved legal aid organization.

b. *Notice of Withdrawal.* If an emeritus attorney's certification is withdrawn, for any reason, the approved legal aid organization shall immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the emeritus attorney was involved.

31.19(7) *Discipline.* In addition to any appropriate proceedings and discipline that may be imposed upon the emeritus attorney by the Iowa Supreme Court under the court's disciplinary rules, the Iowa Rules of Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at any time, with or without cause, withdraw certification under this rule.

31.19(8) *Fees and annual statements.*

a. *Annual Report to Client Security Commission.* A lawyer certified under this rule shall file the annual questionnaire required by Iowa Ct. R. 39.11 and the annual statement required by Iowa Ct. R. 39.8(1), but shall be exempt from the annual disciplinary fee and fund assessment provided in Iowa Ct. Rs. 39.5 and 39.6.

b. Annual Report to Commission on Continuing Legal Education. A lawyer certified under this rule shall fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Ct. Rs. 41.3 and 41.4. However, a lawyer shall not be required to comply with the continuing legal education requirements set forth in Iowa Ct. R. 41.3 for the calendar year in which the lawyer is first certified under this rule. The approved legal aid organization may pay the continuing legal education reporting fee on behalf of the emeritus attorney.